

MAR 05 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BILLY WAYNE HAYNES,

Defendant - Appellant.

No. 07-30209

D.C. No. CR-06-00002-JWS

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Alaska
John W. Sedwick, District Judge, Presiding

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Billy Wayne Haynes appeals from the 78-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm, in violation

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), being an unlawful user in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2), possession of a controlled substance, in violation of 21 U.S.C. § 844(a), possession of an unregistered destructive device, in violation of 26 U.S.C. §§ 5841, 5845(a)(8) and (f), 5861(d), and 5871, and manufacture of an unregistered destructive device, in violation of 26 U.S.C. §§ 5822, 5841, 5845(a)(8) and (f), 5861(f), and 5871. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Haynes contends that the district court erred at sentencing because it based its sentence on facts that were not supported by the record, did not properly consider the nature and circumstances of the offense or the history and characteristics of the defendant, improperly applied and weighed the factors set forth in 18 U.S.C. § 3553(a), and imposed a sentence that was greater than necessary. These contentions are belied by the record. We conclude that the district court did not procedurally err and that the sentence is substantively reasonable. *See Gall v. United States*, 128 S. Ct. 586, 597, 602 (2007); *see also United States v. Stoterau*, 524 F.3d 988, 1001 (9th Cir. 2008); *United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

AFFIRMED.